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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/588,539	08/07/2006	Sergey Babichenko	U 016373-5	8373
140	7590	11/10/2009		
LADAS & PARRY LLP 26 WEST 61ST STREET NEW YORK, NY 10023			EXAMINER SIEFKE, SAMUEL P	
			ART UNIT 1797	PAPER NUMBER
			NOTIFICATION DATE 11/10/2009	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

nyuspatactions@ladas.com

Office Action Summary

Application No.

10/588,539

Applicant(s)

BABICHENKO ET AL.

Examiner

SAM P. SIEFKE

Art Unit

1797

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 June 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Asher et al. (USPN 5,958,780).

Asher discloses a method for marking a liquid and a method for identifying marked liquids that comprises marking a liquid for identification purposes with at least a first marker and a second marker. Each of the markers is miscible with the liquid. The markers are mixed in the liquid so that the ratio of the concentration of the first marker to the concentration of the second marker is substantially equal to a predetermined value. Thus, when a system according to the invention measures the concentrations of the first and second markers, the system can compare the ratio of the measured concentration of the first marker to the measured concentration of the second marker with a look up table of the predetermined values to provide information concerning the identity of the liquid. In a preferred embodiment, the concentration of the markers is measured using an absorption spectrometer. When using an absorption spectrometer to measure the concentration of the markers, each of the markers has an absorbance spectrum with at least one wavelength range where the marker's absorbance is

differentiable from the absorbance of the background liquid and any other marker in the liquid (abstract). Each detector 20a and 20b is assigned to a specific fuel marker of interest, each detector's input is limited to that narrow portion of the mid-IR spectrum as associated with a selected vibration mode signature which has been determined to be characteristic of the assigned fuel marker (col. 5, lines 24-29). Displays 32 and 34 are provided for indication of the fuel identity and fuel adulteration. Cyanobenzene and isotopically enriched cyanobenzene are two markers that can be employed (example 1). See also claims 1-5 and 9-14.

Response to Arguments

Applicant's arguments filed 6/30/09 have been fully considered but they are not persuasive. Applicant argues, "generating for each marker to be introduced into a liquid to be marked of a random number, the value of which determines the number of fixed volume portions of the marker to be introduced into the liquid to be marked, introducing markers into a liquid to be marked automatically without human involvement checking and if necessary adjusting the marking code immediately after the marking is completed, and encrypting the marking code identifying the marked liquid" Is not taught by Asher. The identity of a liquid can be encoded in a specific combination of quantized marker concentrations. Asher further states a unique feature invention's quantization approach means that the marker can be coded into a system which is visible to an observer. In an embodiment of the invention in which two dyes are added to a fuel

sample that impart color in the same region of the visible spectrum, a combination of the dyes may be added to form a marking pattern that is not evident from the color.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **SAM P. SIEFKE** whose telephone number is (571)272-1262. The examiner can normally be reached on M-F 7:00am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jill A. Warden can be reached on 571-272-1700. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Samuel P Siefke/
Primary Examiner, Art Unit 1797